

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan for Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

Investigation 02-04-026
(Filed April 22, 2002)

**ASSIGNED COMMISSIONER'S RULING
ON SPECIFIC MODIFICATIONS TO COMMISSION'S POR**

1. Summary

Parties may file specific proposed modifications to the Commission's Plan of Reorganization (POR) for Pacific Gas and Electric Company (PG&E) by the date in the attached schedule. (See Attachment A.) Specific proposed modifications should be in the form of a Term Sheet or equivalent, as described herein. Parties may file comments and reply comments, and may file a motion for hearing, and a response to a motion, by the dates in the attached schedule.

2. Background

The Order Instituting Investigation (OII) asked parties to provide specific comments on PG&E's POR and the Commission's Alternative POR. Further, it provided that parties "shall also indicate any alternatives to the Plans which they believe to be preferable." (OII, mimeo., page 2.)

Parties offered several comments and alternatives. For example:

1. use a dedicated rate component instead of existing surcharges along with new debt and equity;
2. reduce PG&E's future rate of return;
3. employ a multi-year plan similar to the Commission settlement with Southern California Edison Company;
4. determine the reasonable amount of creditor claims and costs that are recoverable from ratepayers;
5. put PG&E on notice that if PG&E proceeds with an imprudent POR, the Commission will disallow costs of that POR;
6. place a lien on assets for the purpose of recovering current ratepayer contributions above costs (e.g., surcharge revenues) if those assets are later sold;
7. immediately reduce rates to cost, and subsequently increase rates as necessary only when a specific POR is later adopted;
8. require a new certificate of public convenience and necessity for Diablo Canyon to reflect necessary safety requirements that are absent as a result of PG&E's POR; and
9. use state resources to prevent adoption of PG&E's POR, but decline to use state resources to pursue an alternative.

The July 17, 2002 Scoping Memo and Ruling identified the issues based on those stated in the preliminary scoping memo contained in the OIL, along with items raised in comments and reply comments. It directed that Energy Division (ED) file and serve a Declaration. Further, it provided that parties could file and serve comments on the Declaration, motions for hearing, and responses to motions for hearing.

On August 2, 2002, The Utility Reform Network filed and served comments on the ED Declaration, and a motion for hearing. No responses in support or opposition to the motion were filed.

3. Additional Opportunity for Specific Proposals and Alternatives

A viable POR must bring PG&E out of bankruptcy. No party provided a sufficiently specific comment or alternative in response to the OII that would permit reasonable assessment of one or more modifications to the Commission's POR consistent with Federal Bankruptcy Code and Rules while resulting in PG&E emerging from bankruptcy. Before ruling on the pending motion for hearing, it is appropriate to give parties an additional opportunity to provide comments on, and proposed modifications to, the Commission's POR.

To be useful, comments and proposed modifications must be more specific than provided in response to the OII, and must result in PG&E emerging from bankruptcy. Specific comments and proposed modifications must be similar in detail to a Term Sheet. The Term Sheet or equivalent must describe the principal terms of one or more proposed modifications to the Commission's POR. It must provide specific proposed classification and treatment of allowed claims, detailed analysis of the sources and uses of funds, and a proposed timeline.¹ It must include a narrative explanation of the proposed modification, analyze ratepayer effects of the proposed modification compared to the Commission's POR, and explain why the proponent believes the proposed modification improves the Commission's POR. It must show that it results in a reasonable

¹ Parties may refer to the Commission's Proposed Term Sheet dated February 13, 2002 (as corrected February 14, 2002) for an example, and may obtain a copy, if necessary, by calling Jeanette Lo at 415-703-1825.

probability of PG&E successfully emerging from bankruptcy in a manner consistent with Federal Bankruptcy Code and Rules.

The specific Term Sheet or equivalent must be filed and served no later than the date stated in the attached schedule. Parties may comment on a Term Sheet or equivalent, and may reply to comments. Comments and reply comments shall be filed and served no later than the dates in the attached schedule.

A motion for hearing may be filed and served. Motions shall be filed and served no later than the date reply comments are due, as shown in the attached schedule. A motion shall state (1) the specific item or issue addressed in a Term Sheet or equivalent for which hearing is sought (e.g., disputed issue of material fact), (2) citation to the item or issue, (3) justification for hearing (e.g., why the disputed fact is material), (4) what the moving party would seek to demonstrate through hearing, (5) the evidence the party would seek to introduce at hearing, (6) a proposed schedule, and (7) anything else necessary for the purpose of making an informed ruling on the motion. Any right a party may otherwise have to a hearing is waived if the party does not file and serve a timely motion requesting hearing.

A response to a motion for hearing may be filed and served. A response must be filed and served no later than the date in the attached schedule.

IT IS RULED that:

1. Parties may propose specific modifications to the Commission's Plan of Reorganization (POR) for Pacific Gas and Electric Company (PG&E). Specific proposed modifications to the Commission's POR for PG&E shall be in the form of a Term Sheet or equivalent. The Term Sheet or equivalent shall describe the principal terms of one or more proposed modifications to the Commission's

POR. It shall provide specific proposed classification and treatment of allowed claims, detailed analysis of the sources and uses of funds, and a proposed timeline. It shall include a narrative explanation of the proposed modification, analyze ratepayer effects of the proposed modification compared to the Commission's POR, and explain why the proponent believes the proposed modification improves the Commission's POR. It shall show that it results in a reasonable probability of PG&E successfully emerging from bankruptcy in a manner consistent with Federal Bankruptcy Code and Rules.

2. A Term Sheet or equivalent shall be filed and served no later than the date in the schedule contained in Attachment A. Comments and reply comments may be filed and served, and shall be filed and served no later than the dates in the attached schedule.

3. Motions for hearing and responses to motions may be filed and served. A motion shall contain the information stated in the body of this Ruling. Motions and responses shall be filed and served no later than the dates in the attached schedule.

Dated August 14, 2002, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

ATTACHMENT A

**AMENDED SCHEDULE
I.02-04-026**

DATE	EVENT
August 14, 2002	ACR on Specific Modifications to Commission's POR
August 21	Term Sheet or equivalent filed and served
August 26	Comments on Term Sheet filed and served
August 29	Reply comments on Term Sheet filed and served
August 29	Motion for hearing on a Term Sheet filed and served
September 3	Responses to motion for hearing filed and served

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail and by electronic mail this day served a true copy of the original attached Assigned Commissioner's Ruling on Specific Modifications to Commission's POR on all parties of record in this proceeding or their attorneys of record.

Dated August 14, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.